



August 25, 1999

Mr. Douglas A. Poneck  
Escamilla & Poneck, Inc.  
1200 South Texas Building  
603 Navarro Street  
San Antonio, Texas 78205-1826

OR99-2402

Dear Mr. Poneck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126758.

The San Antonio Housing Authority, ("SAHA"), which you represent, received two requests for information that is included in the document titled "Legal Analysis Report Regarding Coco Meza Matter." The requested information was provided to SAHA by applicants for public housing assistance. We note that this office previously marked a portion of the subject report, identifying a portion as excepted from disclosure. Open Records Decision Letter No. 99-1227 (1999). At issue here is the application of federal law to certain information that was not identified as excepted under our previous ruling. You claim that the information subject to the current requests is excepted from disclosure under section 552.101 of the Government Code in conjunction with federal statutes.

You contend that section 552a of title 5 of the United States Code makes information that relates to applicants for public housing assistance confidential. In pertinent part the relevant statutes read:

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, [with exceptions that do not apply here]

5 U.S.C. § 552a(b).

"Agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.

5 U.S.C. § 551(1).

We believe that section 552a(b) pertains only to information held by authorities of the United States federal government. Municipal, county and regional housing authorities are created pursuant to Texas law and are entities of the political subdivisions that create them. Open Records Decision No 655 at 3 (1997). As SAHA is not a federal authority, information in the subject report is not made confidential by section 552a of title 5 of the United States Code.

You also contend that social security number information is made confidential by statute. We need not address this argument. The requestor has indicated that he does not seek this information. You may redact social security number information from the subject document as non-responsive to the request.

You further contend that the identities of applicants for public housing may be revealed only as provided by section 3544 of title 42 of the United States Code. In pertinent part, the relevant statutes read:

In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 503(i) of this title from the State agency charged with the administration of the State unemployment compensation law or pursuant to section 6103(l)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury, officers and employees of the Department of Housing and Urban Development and (in the case of information obtained pursuant to such section 503(i)) representatives of public housing agencies may only use such information

(i) to verify an applicant's or participant's eligibility for or level of benefits;  
or

(ii) in the case of an owner or public housing agency responsible for determining eligibility for or level of benefits, to inform such owner or public housing agency that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner or public housing agency to verify such applicant's or participant's income information.

42 USC § 3544(c)(2)(A).

(1) The State agency charged with the administration of the State law -

(A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban

Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development

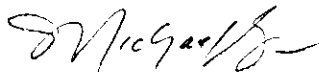
- (i) wage information, and
- (ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and [shall make release provisions]

42 U.S.C. § 503(i).

As regards the information held by SAHA, these statutes address only wage information and information concerning unemployment compensation. That information is made confidential and may not be released. The identities of applicants for public housing are not made confidential by section 3544 of title 42 of the United States Code, nor is information which would tend to reveal such identities. Consequently, you must release the redacted information as provided by Open Records Letter 99-1227 (1999).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 126758

Encl. Submitted documents

cc: Ms. Cindy Tumiel  
San Antonio Express News  
P.O. Box 2171  
San Antonio, Texas 78297-2171  
(w/o enclosures)

Ms. Patricia A. Rodriguez  
Attorney at Law  
11120 Wurzbach Road, Suite 250  
San Antonio, Texas 78230  
(w/o enclosures)